

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Little Fountain Cafe	
t/a Little Fountain Cafe	Show Cause
2339 18th Street, NW	Hearing
Retailer CR - ANC-1C	(Status)
License No. 20251	
Case #13-AUD-00076	

(Failed to Maintain Books &
Records, Failed to Qualify
as a Restaurant)

May 1, 2014

The Alcoholic Beverage Control
Board met in the Alcoholic Beverage Control
Hearing Room, Reeves Building, 2000 14th
Street, N.W., Suite 400S, Washington, D.C.
20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member

ALSO PRESENT:

FERNANDO RIVERO, OAG

1 P-R-O-C-E-E-D-I-N-G-S

2 (10:50 a.m.)

3 CHAIRPERSON MILLER: Okay. I
4 think we are on Case No. 13-AUD-00076, Little
5 Fountain Cafe.

6 Well, before we go to that then,
7 I'm not seeing anybody come. Has the licensee
8 appeared, come today in the case that we
9 continued? I'm not sure which case it was.
10 We have given them until 11:00. I just wanted
11 to see if he was here. I would take you all
12 now. Okay. We can settle that one now.

13 Okay. So we are going to Little
14 Fountain Cafe. Is anyone here from that case?

15 MEMBER ALBERTI: Do we have an OAG
16 attorney? Ms. Jenkins is going to notify the
17 OAG Attorney that we are ready.

18 CHAIRPERSON MILLER: Okay. Okay.

19 MEMBER ALBERTI: Why don't you
20 call the case. Are you ready, Mr. Rivero?
21 All right. Good.

22 CHAIRPERSON MILLER: Well, I did

1 call the case. I'll call it again. Yes, you
2 were outside. Okay.

3 The next case is 13-AUD-00076,
4 Little Fountain Cafe located at 2339 18th
5 Street, N.W., License No. 20251, in ANC-1C.

6 MR. RIVERO: Good morning, Board
7 Members. Fernando Rivero for the District of
8 Columbia standing in for Assistant Attorney
9 General Michael Stern.

10 MS. ZADAH: Good morning. Rema
11 Zadah on behalf of the licensee.

12 MEMBER RODRIGUEZ: I can't hear
13 her.

14 CHAIRPERSON MILLER: All right.
15 We missed your name. Could you speak a little
16 louder.

17 MS. ZADAH: Oh, I'm sorry. Rema
18 Zadah on behalf of the licensee.

19 CHAIRPERSON MILLER: Okay. And
20 what is your position?

21 MR. O'DONNELL: Patrick O'Donnell.

22 CHAIRPERSON MILLER: Okay.

1 MR. O'DONNELL: Representing
2 Little Fountain Cafe.

3 CHAIRPERSON MILLER: Okay. And
4 you both should sign-in. All right. Good.
5 Okay. So this is a Show Cause (Status)
6 Hearing. I need to ask you if you got notice
7 of this hearing?

8 MS. ZADAH: Yes.

9 MR. O'DONNELL: Yes.

10 CHAIRPERSON MILLER: Did you?

11 MS. ZADAH: Yes.

12 CHAIRPERSON MILLER: Okay. And
13 did you read it and understand it?

14 MR. O'DONNELL: Yes.

15 MS. ZADAH: Yes.

16 CHAIRPERSON MILLER: Okay. No,
17 she is not an attorney. Okay.

18 MEMBER RODRIGUEZ: She is just
19 representing.

20 CHAIRPERSON MILLER: Mr. Rivero,
21 do we have any preliminary matters in this
22 case?

1 MR. RIVERO: Yes, Board Members.
2 The parties have an offer in compromise to
3 present to the Board today.

4 CHAIRPERSON MILLER: Okay.

5 MR. RIVERO: The offer in
6 compromise is a warning for Charge 1.

7 MEMBER ALBERTI: And that charge
8 is?

9 MR. RIVERO: The charge --

10 MEMBER ALBERTI: I'm sorry. I
11 don't have the charging document in front of
12 me. Just for the record, if you could.

13 MR. RIVERO: Sure. It's the books
14 and records charge.

15 MEMBER ALBERTI: Okay.

16 MR. RIVERO: And it's a dismissal
17 of Charge 2. As the Board may be aware, the
18 law in this area changed with respect to the
19 penalties. The Schedule of Penalties in Title
20 23 of the DCMR changed and the change became
21 effective in September of 2013. This incident
22 occurred in November of 2013.

1 Based on the violation that was
2 charged, the Schedule of Penalty mandates a
3 warning, that's the warning for Charge 1.

4 CHAIRPERSON MILLER: Um-hum.

5 MR. RIVERO: For Charge 2, the
6 Government is dismissing that charge due to
7 evidentiary reasons.

8 CHAIRPERSON MILLER: Do you agree
9 to the offer in compromise of a warning for
10 the first offense and dismissal of the second?

11 MR. O'DONNELL: Yes, yeah. Sounds
12 good.

13 CHAIRPERSON MILLER: And you
14 realize that if you accept this offer in
15 compromise you waive your right to a hearing?

16 MR. O'DONNELL: I think we accept.
17 Thank you.

18 CHAIRPERSON MILLER: Okay. Are
19 there any questions or comments by Board
20 Members?

21 MEMBER ALBERTI: I would just
22 caution the licensee to take heed of the

1 advice that the Investigator may have given
2 you about how to keep complete records. If
3 you have any question, ask one of our --
4 someone here at ABRA about that.

5 Because in a year from now, you
6 may be audited again and it would be an
7 expectation that you are able to substantiate
8 that you are operating as a restaurant. And
9 it's necessary for you to have complete books
10 and records.

11 I at least will find on the fact
12 if we find next year that you don't have
13 complete books and records and we can't
14 establish that you are a restaurant, I will
15 take that as very seriously in my judgment
16 next year. So that's part of the warning.

17 MR. O'DONNELL: Okay.

18 MEMBER ALBERTI: All right. I
19 don't want to catch you off-guard.

20 MR. O'DONNELL: No. Thank you.

21 MEMBER ALBERTI: All right. Thank
22 you.

1 CHAIRPERSON MILLER: Okay. Then I
2 move that we accept this offer in compromise
3 of a warning for the first offense and
4 dismissal of the second offense. Is there a
5 second?

6 MEMBER RODRIGUEZ: Second.

7 CHAIRPERSON MILLER: Mr. Rodriguez
8 seconded the motion.

9 All those in favor say aye.

10 ALL: Aye.

11 CHAIRPERSON MILLER: All those
12 opposed? All those abstaining? The motion
13 passes 4-0-0.

14 Okay. Thank you. We need to
15 sign-off on that. You can wait. You can wait
16 in the back.

17 MR. O'DONNELL: Okay.

18 CHAIRPERSON MILLER: Thank you
19 very much.

20 MR. O'DONNELL: Thank you.

21 CHAIRPERSON MILLER: Okay.

22 (Whereupon, the Show Cause

(Status) Hearing in the above-entitled matter
was concluded at 10:59 a.m.)

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<p>A</p> <p>a.m 2:2 9:2 able 7:7 above-entitled 9:1 ABRA 7:4 abstaining 8:12 accept 6:14,16 8:2 advice 7:1 agree 6:8 ALBERTI 1:17 2:15,19 5:7,10,15 6:21 7:18,21 Alcoholic 1:2,12,13 ANC-1C 1:7 3:5 anybody 2:7 appeared 2:8 area 5:18 Assistant 3:8 attorney 2:16,17 3:8 4:17 audited 7:6 aware 5:17 aye 8:9,10</p>	<p>4:12,16,20 5:4 6:4 6:8,13,18 8:1,7,11 8:18,21 change 5:20 changed 5:18,20 charge 5:6,7,9,14 5:17 6:3,5,6 charged 6:2 charging 5:11 Columbia 1:1 3:8 come 2:7,8 comments 6:19 complete 7:2,9,13 compromise 5:2,6 6:9,15 8:2 concluded 9:2 continued 2:9 Control 1:2,12,13 CR 1:7</p>	<p>G</p> <p>General 3:9 given 2:10 7:1 go 2:6 going 2:13,16 good 2:21 3:6,10 4:4 6:12 Government 6:6</p> <p>H</p> <p>hear 3:12 hearing 1:6,13 4:6 4:7 6:15 9:1 HECTOR 1:18 heed 6:22</p>	<p>Members 3:7 5:1 6:20 met 1:13 Michael 3:9 MIKE 1:18 Miller 1:14,17 2:3 2:18,22 3:14,19 3:22 4:3,10,12,16 4:20 5:4 6:4,8,13 6:18 8:1,7,11,18 8:21 missed 3:15 morning 3:6,10 motion 8:8,12 move 8:2</p>	<p>P</p> <p>P-R-O-C-E-E-D... 2:1 part 7:16 parties 5:2 passes 8:13 Patrick 3:21 penalties 5:19,19 Penalty 6:2 position 3:20 preliminary 4:21 present 1:15,19 5:3 presiding 1:14</p>
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